

201 KAR 9:082. Informal proceedings.

RELATES TO: KRS 311.530-311.620, 311.990

STATUTORY AUTHORITY: KRS 311.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the administrative regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this administrative regulation is to establish rules regarding the institution of informal proceedings pursuant to KRS 311.591(10).

Section 1. Commencement of Informal Proceedings. At any time after the authorized issuance of a complaint or the issuance of a show cause order, the responding physician may seek an informal dispensation of any matter upon signing a waiver that states that the physician waives his or her right to raise any constitutional, statutory or common law objection should the board reject the informal proposal or if informal proceedings are curtailed by the general counsel. The general counsel shall have complete discretion to negotiate with the responding physician concerning stipulations of fact, conclusions of law and proposed discipline. The general counsel shall also have discretion to reject any or all offers of informal dispensation and may commence informal proceedings on his or her own initiative.

Section 2. Presentation of Proposal to Board. Whenever the general counsel believes that an appropriate informal dispensation has been negotiated, he or she shall cause to be presented to the board the responding physician's signed waiver and stipulations of fact, conclusions of law and a proposed order of informal dispensation signed by the responding physician and the general counsel. The documents shall include a line for the signature of an officer of the board and shall become effective upon being accepted by the board, signed by an officer and filed of record.

Section 3. Effect of Rejection. If the board rejects an offer of informal dispensation, the matter shall continue to proceed as a formal proceeding, provided, however, that further informal negotiations may be conducted and subsequent offers of informal dispensation presented to the board. Rejection shall not be taken as a finding or determination of any kind on behalf of the board and no orders or other pleadings shall be filed of record in regard to any rejected proposal.

Section 4. Oral or Written Presentation. The board may allow oral or written presentation before the board in regard to any offer of informal dispensation. Oral presentations shall not be recorded and written presentations shall not be filed of record or included in the board's minutes. All oral and written presentations shall be heard and considered in closed session. (11 Ky.R. 320; eff. 10-9-84.)